

105TH CONGRESS  
2D SESSION

# S. 1963

To amend title 10, United States Code, to permit certain beneficiaries of the military health care system to enroll in Federal employees health benefits plans.

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## IN THE SENATE OF THE UNITED STATES

APRIL 21, 1998

Mr. THURMOND (for himself and Mr. COVERDELL) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## A BILL

To amend title 10, United States Code, to permit certain beneficiaries of the military health care system to enroll in Federal employees health benefits plans.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Military Health Care  
5       Fairness Act”.

1 **SEC. 2. INCLUSION OF CERTAIN COVERED BENEFICIARIES**  
 2 **IN FEDERAL EMPLOYEES HEALTH BENEFITS**  
 3 **PROGRAM.**

4 (a) FEHBP OPTION.—(1) Chapter 55 of title 10,  
 5 United States Code, is amended by inserting after section  
 6 1079a the following new section:

7 **“§ 1079b. Health care coverage through Federal Em-**  
 8 **ployees Health Benefits program**

9 “(a) FEHBP OPTION.—(1) Subject to the availabil-  
 10 ity of funds to carry out this section for a fiscal year, eligi-  
 11 ble beneficiaries described in subsection (b) shall be af-  
 12 forded an opportunity to enroll in any health benefits plan  
 13 under the Federal Employee Health Benefits program  
 14 under chapter 89 of title 5, United States Code, offering  
 15 medical care comparable to the care authorized by section  
 16 1077 of this title to be provided under section 1076 of  
 17 this title (in this section referred to as an ‘FEHBP plan’).

18 “(2) The Secretary of Defense and the other admin-  
 19 istering Secretaries shall jointly enter into an agreement  
 20 with the Director of the Office of Personnel Management  
 21 to carry out paragraph (1).

22 “(b) ELIGIBLE BENEFICIARIES.—(1) An eligible ben-  
 23 eficiary referred to in subsection (a) is a covered bene-  
 24 ficiary who is a military retiree (except a military retiree  
 25 retired under chapter 1223 of this title), a dependent of  
 26 such a retiree described in section 1072(2)(B) or (C), or

1 a dependent described in section 1072(2)(A), (D), or (I)  
2 of such a retiree who enrolls in an FEHBP plan, who,—

3 “(A) is not guaranteed access under TRICARE  
4 to health care that is comparable to the health care  
5 benefits provided under the service benefit plan of-  
6 fered under the Federal Employee Health Benefits  
7 program;

8 “(B) is eligible to enroll in the TRICARE pro-  
9 gram but is not enrolled because of the location of  
10 the beneficiary, a limitation on the total enrollment,  
11 or any other reason; or

12 “(C) is entitled to hospital insurance benefits  
13 under part A of title XVIII of the Social Security  
14 Act (42 U.S.C. 1395c et seq.).

15 “(2) In addition to the eligibility requirements de-  
16 scribed in paragraph (1), during the first two years that  
17 covered beneficiaries are offered the opportunity to enroll  
18 in an FEHBP plan under subsection (a), eligible bene-  
19 ficiaries shall be limited to—

20 “(A) except as provided in subparagraph (B),  
21 military retirees 65 years of age or older; and

22 “(B) military retirees retired under chapter 61  
23 of this title.

1       “(3) An eligible beneficiary shall not be required to  
 2 satisfy any eligibility criteria specified in chapter 89 of  
 3 title 5 as a condition for enrollment in an FEHBP plan.

4       “(c) PRIORITY OF ENROLLMENT.—(1) Eligible bene-  
 5 ficiaries shall be permitted to enroll in an FEHBP plan  
 6 based on the order in which such beneficiaries apply to  
 7 enroll in the plan.

8       “(2) The Secretary shall maintain a list of eligible  
 9 beneficiaries who apply to enroll in an FEHBP plan, but  
 10 whom the Secretary is not able to enroll because of the  
 11 lack of available funds to carry out this section.

12       “(d) PERIOD OF ENROLLMENT.—The Secretary shall  
 13 provide a period of enrollment for eligible beneficiaries in  
 14 an FEHBP plan for a period of 90 days—

15               “(1) before implementation of the program de-  
 16 scribed in subsection (a); and

17               “(2) each subsequent year thereafter.

18       “(e) TERM OF ENROLLMENT.—(1) The minimum pe-  
 19 riod of enrollment in an FEHBP plan shall be three years.

20       “(2) A beneficiary who elects to enroll in an FEHBP  
 21 plan, and who subsequently discontinues enrollment in the  
 22 plan before the end of the period described in paragraph  
 23 (1), shall not be eligible to reenroll in the plan.

24       “(f) RECEIPT OF CARE IN MTF.—An eligible bene-  
 25 ficiary enrolled in an FEHBP plan may receive care at

1 a military medical treatment facility subject to the avail-  
2 ability of space in such facility, except that the plan shall  
3 reimburse the facility for the cost of such treatment. The  
4 plan may adjust beneficiary copayments so that receipt of  
5 such care at a military medical treatment facility results  
6 in no additional costs to the plan, as compared with the  
7 costs that would have been incurred if care had been re-  
8 ceived from a provider in the plan.

9 “(g) CONTRIBUTIONS.—(1) Contributions shall be  
10 made for an enrollment of an eligible beneficiary in a plan  
11 of the Federal Employee Health Benefits program under  
12 this section as if the beneficiary were an employee of the  
13 Federal Government.

14 “(2) The administering Secretary concerned shall be  
15 responsible for the Government contributions that the Di-  
16 rector of the Office of Personnel Management determines  
17 would be payable by the Secretary under section 8906 of  
18 title 5 for an enrolled eligible beneficiary if the beneficiary  
19 were an employee of the Secretary.

20 “(3) Each eligible beneficiary enrolled in an FEHBP  
21 plan shall be required to contribute the amount that would  
22 be withheld from the pay of a similarly situated Federal  
23 employee who is enrolled in the same health benefits plan  
24 under chapter 89 of title 5.

1       “(h) MANAGEMENT OF PARTICIPATION.—The Direc-  
2   tor of the Office of Personnel Management shall manage  
3   the participation of an eligible beneficiary in a health ben-  
4   efits plan of the Federal Employee Health Benefits pro-  
5   gram pursuant to an enrollment under this section. The  
6   Director shall maintain separate risk pools for participat-  
7   ing eligible beneficiaries until such time as the Director  
8   determines that inclusion of participating eligible bene-  
9   ficiaries under chapter 89 of title 5 will not adversely af-  
10   fect Federal employees and annuitants enrolled in health  
11   benefits plans under such chapter.

12       “(i) REPORTING REQUIREMENTS.—(1) Not later  
13   than November 1 of each year, the Secretary of Defense  
14   and the Director of the Office of Personnel Management  
15   shall jointly submit to Congress a report describing the  
16   provision of health care services to enrollees under this  
17   section during the preceding fiscal year. The report shall  
18   address or contain the following:

19               “(A) The number of eligible beneficiaries who  
20       are participating in health benefits plans of the Fed-  
21       eral Employee Health Benefits program pursuant to  
22       an enrollment under this section, both in terms of  
23       total number and as a percentage of all covered  
24       beneficiaries who are receiving health care through  
25       the health care system of the uniformed services.

1           “(B) The extent to which eligible beneficiaries  
2       use the health care services available to the bene-  
3       ficiaries under health benefits plans pursuant to en-  
4       rollments under this section.

5           “(C) The cost to enrollees for health care under  
6       such health benefits plans.

7           “(D) The cost to the Department of Defense,  
8       the Department of Transportation, the Department  
9       of Health and Human Services, and any other de-  
10      partments and agencies of the Federal Government  
11      of providing care to eligible beneficiaries pursuant to  
12      enrollments in such health benefits plans under this  
13      section.

14          “(E) A comparison of the costs determined  
15      under paragraphs (C) and (D) and the costs that  
16      would otherwise have been incurred by the United  
17      States and enrollees under alternative health care  
18      options available to the administering Secretaries.

19          “(F) The effects of the exercise of authority  
20      under this section on the cost, access, and utilization  
21      rates of other health care options under the health  
22      care system of the uniformed services.

23          “(2) Not later than the date that is four years after  
24      the date of enactment of the National Defense Authoriza-

tion Act for fiscal year 1999, the Secretary of Defense shall submit to Congress a report describing—

“(A) whether the Secretary recommends that a health care option for retired covered beneficiaries equivalent to the option described in subsection (a) be permanently offered to such beneficiaries; and

“(B) the estimated costs of offering such an option.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1079a the following:

“1079b. Health care coverage through Federal Employees Health Benefits program.”.

(b) CONFORMING AMENDMENTS.—(1) Section 8905 of title 5, United States Code, is amended—

(A) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(B) by inserting after subsection (c) the following new subsection (d):

“(d) An individual whom the Secretary of Defense determines is an eligible beneficiary under subsection (b) of section 1079b of title 10 may enroll in a health benefits plan under this chapter in accordance with the agreement entered into under subsection (a) of such section between the Secretary and the Office and with applicable regulations under this chapter.”.



1       (2) Section 8906 of title 5, United States Code, is  
2 amended—

3           (A) in subsection (b)—

4               (i) in paragraph (1), by striking “para-  
5               graphs (2) and (3)” and inserting in lieu there-  
6               of “paragraphs (2), (3), and (4)”; and

7               (ii) by adding at the end the following new  
8               paragraph:

9           “(4) In the case of individuals who enroll in a health  
10 plan under section 8905(d) of this title, the Government  
11 contribution shall be determined under section 1079b(g)  
12 of title 10.”; and

13           (B) in subsection (g)—

14               (i) in paragraph (1), by striking “para-  
15               graph (2)” and inserting in lieu thereof “para-  
16               graphs (2) and (3)”; and

17               (ii) by adding at the end the following new  
18               paragraph:

19           “(3) The Government contribution described in sub-  
20 section (b)(4) for beneficiaries who enroll under section  
21 8905(d) of this title shall be paid as provided in section  
22 1079b(g) of title 10.”.

23           (c) IMPLEMENTATION.—The Secretary of Defense—

24               (1) shall begin to offer the health benefits op-  
25               tion under section 1079b(a) of title 10, United

1 States Code (as added by subsection (a)) not later  
 2 than the date that is 6 months after the date of the  
 3 enactment of this Act; and

4 (2) shall continue to offer such option through  
 5 the year 2003, and to provide care to eligible cov-  
 6 ered beneficiaries under such section through the  
 7 year 2005.

8 (d) FUNDING FROM AUTHORIZED APPROPRIA-  
 9 TIONS.—Of the funds authorized to be appropriated for  
 10 the Department of Defense for military personnel for fis-  
 11 cal years 1999 through 2005, amounts shall be available  
 12 for carrying out section 1079b of title 10, United States  
 13 Code (as added by subsection (a)), as follows:

14 (1) For fiscal year 1999, \$100,000,000.

15 (2) For fiscal year 2000, \$200,000,000.

16 (3) For fiscal year 2001, \$300,000,000.

17 (4) For fiscal year 2002, \$400,000,000.

18 (5) For fiscal year 2003, \$500,000,000.

19 (6) For each of fiscal years 2004 and 2005,  
 20 such sums as are necessary.

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